

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

SARAH UNDERWOOD	§	PLAINTIFF
v.	§	Civil No. 1:18cv24-HSO-JCG
MISSISSIPPI DEPARTMENT OF CORRECTIONS and PELICIA HALL	§	DEFENDANTS
	§	
	§	

**ORDER DENYING DEFENDANTS MISSISSIPPI DEPARTMENT OF
CORRECTIONS AND PELICIA HALL'S MOTIONS [96], [98] TO CONTINUE
TRIAL**

BEFORE THE COURT are Defendants Mississippi Department of Corrections (“MDOC”) and Pelicia Hall’s Motion [96] and Amended Motion [98]¹ to Continue Trial. Plaintiff Sarah Underwood has filed a Response [99] in opposition to the Motions and Defendants have filed a Reply [100]. The Court finds that the Motions are not well taken and should be denied.

Defendants request a continuance of the June 14, 2021, trial date in this case based upon attorney turnover within the Office of the Attorney General of Mississippi, current counsel’s limited time for preparation and present caseload, and difficulty locating witnesses who no longer work for the MDOC. *See Mot. [98]* at 1-2. The Court is not persuaded by Defendants’ argument that they have received inadequate time to prepare for trial, as they will have had two months of preparation time from the time the Court set the case for trial, *see Text Only*

¹ Defendants filed their original Motion [96] on May 7, 2021, and subsequently filed an Amended Motion [98] on May 10, 2021, to correct a typographical error.

Amended Case Management Order April 22, 2021, and the date of trial on June 14, 2021. Further, the parties were fully prepared for trial prior to the Court's Special Orders continuing jury trials as a result of the COVID-19 pandemic. Resp. [99] at 2. Discovery is complete, dispositive motions have been resolved, multiple Defendants have been dismissed, and the issues in this case have been streamlined based upon the Court's Order [74] Granting in Part and Denying in Part Defendants' Motion [58] for Summary Judgment. Only Plaintiff's claims for sex discrimination based upon a hostile work environment against the MDOC under Title VII and against Hall under 42 U.S.C. § 1983 remain for resolution. *See* Order [74]. Defendants in their Reply [100] also point to trips counsel have planned that cannot be rescheduled and to Mr. Walley's departure from the Attorney General's Office in August as further justification for a continuance. Neither reason was included in Defendants' original Motions [96], [98] to Continue and neither justifies a continuance under these circumstances.

Furthermore, the difficulties that Defendants are experiencing in locating witnesses or replacements for witnesses no longer employed by MDOC are insufficient justifications for a continuance. There is no reason to expect that these problems will be alleviated by a delay in trying this case and, because discovery is complete, the content of these witnesses' testimony is already known to the parties. Likewise, there is no indication that any turnover in career staff in the Attorney General's Office would change or decrease in the interim so as to justify delaying the date of this trial any further. Indeed, counsel's acknowledgement that Mr.

Walley will leave the Office in August confirms this concern.

The Court has a significant backlog of criminal and civil cases awaiting jury trials as a result of the COVID-19 pandemic and needs to schedule these cases for trial, beginning with those cases that have been on the docket the longest. As Plaintiff points out in her Response [98], this case was filed in January 2018 and will be included on the “three-year list” under the Civil Justice Reform Act if it is not tried before the end of the year. Indeed, of this Court’s 212 pending civil cases, this matter is the second oldest civil case on the Court’s docket, behind only to a qui tam case. Given the number of other cases the Court currently has to try, if it were to grant a continuance it is unlikely the case could be tried any time soon and perhaps not even this year. Under these circumstances, the Court finds that a continuance is not justified.

For the foregoing reasons, Defendants’ Motions [96], [98] are not well taken and should be denied. This case will remain set for jury trial on the Court’s calendar for June 14, 2021, at 9:00 a.m. in Courtroom 806.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, Defendants Mississippi Department of Corrections and Pelicia Hall’s Motions [96], [98] to Continue Trial are **DENIED**.

SO ORDERED this the 18th day of May, 2021.

Halil Suleyman Ozerdan
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE